



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO- 173931

PRELIMINARY RECITALS

On April 27, 2016, the above petitioner filed a hearing request under Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Waukesha County Health and Human Services regarding FoodShare benefits (FS). The hearing was held on June 2, 2016, by telephone, from Madison, Wisconsin.

The issue for determination is whether the respondent correctly determined petitioner's FS allotment.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

[REDACTED]

Waukesha County Health and Human
Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. He is a household of one.

2. Petitioner was an ongoing recipient of FS benefits, and was notified on May 9, 2016, that his FS benefits would be reduced effective June 1, 2016, from \$128.00 to \$80.00, due to an increase in unearned income. Exhibit 2.
3. The petitioner's monthly gross unearned income in April, 2016, was \$1,007.00 from Social Security Disability. On or about May 1, 2016 the petitioner's monthly SSDI payment increased to \$1,112.00. See, Exhibits 3-5.
4. The petitioner's monthly rent is \$600.00 and he is responsible for his gas and electric. Exhibit 1.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook (FSWH)*. The federal rule requires the county to start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 1 is \$155, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

At hearing, the respondent explained that the increase in unearned income came about due to Social Security no longer deducting \$104.00 from petitioner's payment for Medicare Part B premiums. As a result, petitioner's income "increased," and his eligibility for FS benefits accordingly decreased. I have reviewed petitioner's budget calculations, and have found no error. Petitioner's gross monthly income of \$1,112.00 is adjusted to \$957.00 after deducting the standard deduction of \$155.00. Further subtracting the shelter deduction of \$579.50, petitioner's net adjusted income is 377.50. The FS maximum allotment for a household of 1 is \$194.00. When 30% of petitioner's net adjusted income is subtracted from the maximum allotment, it yields a result of \$80.00.

CONCLUSIONS OF LAW

The agency correctly calculated the petitioner's FS benefits effective June 1, 2016, in the amount of \$80.00.

THEREFORE, it is

ORDERED

That this petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and

why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

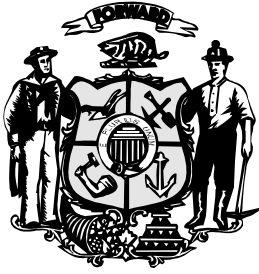
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 11th day of July, 2016

\s _____
Peter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 11, 2016.

Waukesha County Health and Human Services
Division of Health Care Access and Accountability